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But however that may be, it seems it is well established that a criminal court cannot after judgment is rendered and sentence pronounced indefinitely postpone the execution of the sentence. *Tanner* v. *Wiggins,* 54 Fla. 203, 45 South. 459, 14 Ann. Cas. 718; *Neal* v. *State, supra; Fuller* v. *State,* 100 Miss. 811, 57 South. 806. Though overlooked by a number of courts, a clear distinction should be made between the suspension of the imposition of a sentence and the execution of a sentence. See *Re Webb,* 89 Wis. 354, 62 N. W. 177, 46 Am. St. Rep. 846, 27 L. R. A. 356; *Neal* v. *State, supra.*

Statutes have been passed in many states giving the court the power to indefinitely suspend sentence, unfortunately adding to the conflict rather than diminishing it. A number of courts take the view that such a statute is merely declarative of an already existing power inherent in the courts at common law. *People ex rel. Forsyth* v. *Court of Sessions, supra; Com.* v. *Dowdican's Bail, supra.* Another line of cases holds that such a statute encroaches upon the constitutional power of the executive to grant pardons and reprieves; and is therefore unconstitutional. *Snodgrass* v. *State, supra.* But see *Ex parte Hart* (N. D.), 149 N. W. 568.

CORPORATIONS—RECEIVERS—CLAIMS PROVABLE.—The buyer, a corporation, entered a contract to buy certain goods for a term of five years. By the terms of the contract, should the buyer fail to pay for any delivery of the goods and demand of payment be made by the seller, then, after two weeks, the goods being still not paid for, the contract should be deemed broken and the buyer should be assessed specified damages. After the buyer had failed to make prompt payment and the seller had made demand on him, but before the expiration of the two weeks, a receiver was appointed for the corporation because of insolvency. A claim for damages for the breach of the contract was filed against the assets of the insolvent corporation in the hands of the receiver. *Held,* the claim is provable. *In re Ross & Son* (Del.), 95 Atl. 31.

The cases involving the question of whether or not the appointment of a receiver for an insolvent corporation prevents the enforcement of a right to damages for the breach of an executory contract are by no means harmonious in their decisions. By the general rule, known as the New York rule, damages for the breach of an executory contract for personal services, are not provable. *Lenoir* v. *Linville Improvement Co.,* 126 N. C. 922, 36 S. E. 185, 51 L. R. A. 146; *People* v. *Mutual Life Insurance Co.,* 91 N. Y. 174; *Miller* v. *Cosmic Cement, Tile & Stone Co.,* 109 Md. 11, 71 Atl. 91. The minority, or New Jersey rule allows such claims to share *pro rata* in the funds distributed by the receiver. *Spades* v. *Mural Decoration Mfg. Co.,* 47 N. J. Eq. 18, 20 Atl. 378; *Rosenbaum* v. *United States Credit-System Co.,* 61 N. J. L. 543, 40 Atl. 591. Because of the possibility that the funds in the hands of the receiver might be greater than the otherwise provable outstanding claims, in which case the difference would be returned to the stockholders, thus giving an unfair protection against just liabilities. See *Rosenbaum* v. *United States Credit-System Co., supra.* In the case of the breach of an executory contract of lease, by the decided weight of authority, it is

held that the appointment of a receiver for the insolvent lessee does not prevent the enforcement of a right to damages. *People* v. *St. Nicholas Bank,* 151 N. Y. 592, 45 N. E. 1129; *Wooland* v. *Wise,* 112 Md. 35, 76 Atl. 502; *Chicago Fire Place Co.* v. *Tait,* 58 Ill. App. 293; *Bolles* v. *Cresent, etc., Co.,* 53 N. J. Eq. 614, 32 Atl. 1061. It has been held, however, that such claims are not provable. *Fidelity Safe Deposit, etc., Co.* v. *Armstrong,* 35 Fed. 567. And, in cases involving claims for the breach of executory contracts other than those for personal services or lease, the weight of authority is that the appointment of a receiver does prevent the enforcement of a right to damages. *Wells* v. *Hartford Manilla Co.,* 76 Conn. 27, 55 Atl. 599; *Scott* v. *Rainier Power & Ry. Co.,* 13 Wash. 108, 42 Pac. 531; *Griffith* v. *Blackwater Boom & Lumber Co.,* 55 W. Va. 604, 48 S. E. 442, 69 L. R. A. 124. But, on reason, it would seem that the minority rule adopted in the principal case commends itself because of the equitable manner in which it distributes the funds of the insolvent corporation among all of those who are in fact damaged by the insolvency. See *Pennsylvania Steel Co.* v. *New York City Ry. Co.* (C. C. A.), 198 Fed. 721.

COURTS—CONCURRENT FEDERAL AND STATE JURISDICTION—TRADE-MARKS. —The Federal Trade-Mark Act of Feb. 20, 1905, provides that the owner of a trade-mark employed in interstate and foreign commerce shall have a right to its exclusive use, and that certain federal courts shall have jurisdiction of all suits arising thereunder. A suit was instituted in a state court to restrain the infringement of a trade-mark acquired under the act; and the jurisdiction of the court was contested on the ground that the federal courts only could take cognizance of such causes. *Held,* state courts have concurrent jurisdiction. *Oneida Community, Ltd.* v. *Oneida Game Trap Co., Inc.,* 154 N. Y. Supp. 391.

State courts may exercise concurrent jurisdiction with the federal courts in all cases arising under the Constitution, laws, and treaties of the United States, provided they possess jurisdiction over the subject matter independent of national authority and such jurisdiction has not been vested exclusively in the federal courts. *Claflin* v. *Houseman,* 93 U. S. 130; *Robb* v. *Connolly,* 111 U. S. 624. See *The Moses Taylor,* 4 Wall. 411. State courts have jurisdiction of causes of action involving the acquisition of trade-marks and the rights of the owner thereunder independent of any national authority. *Gato* v. *El Modelo Cigar Mfg. Co.,* 25 Fla. 886, 7 South. 23, 6 L. R. A. 823; *Burt* v. *Tucker,* 178 Mass. 493, 59 N. E. 1111, 52 L. R. A. 112. Therefore, a cause of action arising under the Trade-Mark Act may be asserted in the state courts, unless the language of the act is such as vests exclusive jurisdiction in the federal courts. Where a statute creating a right fails to designate the court or courts in which the right may be enforced, resort may be had to either a state or federal court, provided, of course, such courts have jurisdiction over the subject matter. *Claflin* v. *Houseman,* 93 U. S. 130; *Robb* v. *Connolly,* 111 U. S. 624. It seems that there is an equal right on the part of the state courts to take cognizance of cases arising under federal statutes where they have jurisdiction over the subject matter, notwithstanding the fact that Congress has desig-